

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7270

BILL NUMBER: HB 1182

NOTE PREPARED: Jan 4, 2011

BILL AMENDED:

SUBJECT: Consumer Protection Assistance Fund.

FIRST AUTHOR: Rep. Burton

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: The bill establishes the Consumer Protection Assistance Fund (CPAF) to be administered by the Office of the Attorney General (OAG).

It provides that money in the CPAF may be used to make payments to qualifying individuals who: (1) are awarded restitution by a court in a case instituted or maintained by the office in connection with a violation of certain specified consumer protection statutes; and (2) assist or otherwise cooperate with the OAG in the investigation, prosecution, or enforcement of the case.

The bill provides that the OAG may not make a payment to a qualifying individual unless the party ordered to pay restitution to the qualifying individual has not paid the full amount ordered by the court.

It also provides that upon receiving a qualifying claim, the office shall pay, from money available in the CPAF, to each qualifying individual identified in the claim an amount that: (1) is determined at the discretion of the OAG; (2) may be up to the amount of the restitution awarded to the qualifying individual but not paid by the party ordered to pay the restitution; and (3) may not exceed \$3,000.

The bill provides that a qualifying individual is not prohibited from seeking to recover, in any action or through any other lawful remedy available, any amount of the restitution that is awarded by the court and exceeds the amount paid to the individual by the OAG.

It amends the statute governing deceptive consumer sales to specify that civil penalties recovered by the office in actions for violations of the statutes governing: (1) credit services organizations; (2) mortgage rescue fraud; and (3) home loan practices; may, if ordered by the court, be deposited in the CPAF. It amends

the statute governing home loan practices to provide that civil penalties recovered by the OAG in actions for a violation of the statute may, if ordered by the court, be deposited in the CPAF.

Effective Date: Upon passage.

Explanation of State Expenditures: *Office of the Attorney General (OAG):* The bill requires the OAG to administer a restitution assistance program by prescribing a form for processing applications for restitution assistance which must be filed within not later than 180 after the order for restitution is issued. The OAG will have to process the forms and determine whether a person's claim for restitution assistance should be awarded. The bill creates the Consumer Protection Assistance Fund (CPAF), which will fund restitution assistance awards as well as the OAG's expenses in administering this new program.

Explanation of State Revenues: *Consumer Protection Assistance Fund (CPAF):* The bill establishes the CPAF to compensate qualifying individuals who submit claims to the OAG. If ordered by the court, at the request of the OAG, civil penalties recovered for violation of the credit services organization, mortgage rescue fraud, or home loan practices statutes may be placed in the CPAF rather than the state General Fund. [Not all civil penalties will go to the CPAF.] The money in the fund does not revert to the state General Fund at the end of the fiscal year.

Additional Information: Under current law, violations of one of these section may be subject to penalties for a deceptive act of up to \$10,000 per act, and may include \$10,000 for violation of an injunction. The OAG files an estimated 100 cases per year for a deceptive act under these three statutes. A victim of the deceptive act may bring a separate action and receive restitution and damages. If the victim is not paid by the party ordered to pay restitution, the bill would allow victim to apply to the CPAF and receive restitution, with a maximum payment of \$3,000.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: OAG.

Local Agencies Affected:

Information Sources: David Miller, OAG, 234-2219.

Fiscal Analyst: Karen Firestone, 317-234-2106.